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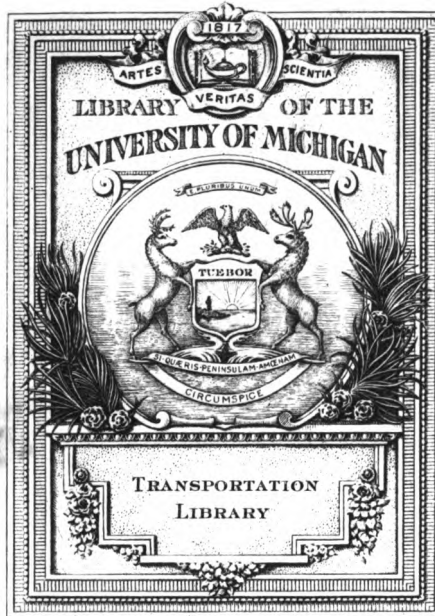
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u. s. INTERSTATE COMMERCE COMMISSION.

REVISED AND AMENDED

RULES OF PRACTICE

IN

Cases and Proceedings before the Commission

ADOPTED

JUNE 8, 1889.



WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1889.

323A—1





Transport.

INTERSTATE COMMERCE COMMISSION.

At a session of the Commission, held at its office in the city of Washington, on the 8th day of June, 1889, it was

Resolved, That the following revised and amended rules of practice in cases and proceedings before the Interstate Commerce Commission be established and printed, and that sections 13 and 17 and part of section 18 of the Act to regulate commerce, and sections 863 and 864 of the Revised Statutes of the United States, be printed in connection with the rules.

A true copy of the record.

Attest:

[L. S.]

EDWARD A. MOSELEY,

Secretary.

INTERSTATE COMMERCE COMMISSION.

SECTIONS 13 AND 17 AND PART OF SECTION 18 OF AN ACT TO REGULATE COMMERCE.

(Approved February 4, 1887; amended March 2, 1889.)

SEC. 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the Commission.

If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said Commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory, at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

SEC. 17. That the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the Commission shall constitute a quorum for the transaction of business, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before said Commission and be heard, in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said Commission shall have an official seal, which shall be judicially noticed. Either of the members of the Commission may administer oaths and affirmations and sign subpoenas.

SEC. 18. * * * Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

**RULES OF PRACTICE IN CASES AND PROCEEDINGS
BEFORE THE COMMISSION.**

PUBLIC SESSIONS.

I. The general sessions of the Commission for the hearing of contested cases will be held at its office in the Sun building, No. 1315 F street, northwest, Washington, D. C., on such days and at such hour as the Commission may designate.

Sessions for receiving, considering, and acting upon petitions, communications, and applications relating to business before the Commission, and also for considering and acting upon any business of the Commission other than contested cases, will be held at its said office at 11 o'clock a. m. on Monday of every week when the Commission is at Washington.

When special sessions are held at other places such regulations as may be necessary will be made by the Commission.

PARTIES.

II. Where a complaint concerns only anything done or omitted to be done by a single carrier no other need be made a party, but if it relates to joint tariffs, or matters in which two or more carriers doing business under a common control, management, or arrangement, for a continuous carriage or shipment, are interested, all the carriers constituting such line must be made parties.

A complainant may embrace several carriers, or lines of carriers, operated separately, in the same proceeding, when

the subject-matter of the complaint involves substantially the same alleged violation of the law by the several carriers or lines.

Persons or carriers not parties may apply, in any pending case or proceeding, for leave to intervene and to be heard upon the questions involved.

COMPLAINTS UNDER SECTION 13.

III. Complaints under section 13 of the act, of anything done or omitted to be done by any common carrier subject to the provisions of the act in contravention of the provisions thereof, must be made by petition, which must briefly state the facts which are claimed to constitute a violation of the act, and must be verified by the petitioner, or by some officer or agent of the corporation, society, or other body or organization making the complaint, to the effect that the allegations of the petition are true to the knowledge or belief of the affiant.

The complainant must furnish as many written or printed copies of the complaint or petition as there may be parties complained against to be served. When a complaint is made the name of the carrier or carriers complained against must be set forth in full, and the address of the petitioner, and the name and address of his attorney or counsel, if any, must be indorsed upon the complaint.

The Commission will cause a copy of the complaint to be served upon every common carrier complained against, by mail or personally, in its discretion, with notice to the carrier or carriers to satisfy the complaint or to answer the same in writing within the time specified.

ANSWERS.

IV. A carrier complained against must answer the complaint made within twenty days from the date of the notice, unless the Commission shall in particular cases prescribe a shorter time for the answer to be served, and in such cases the answer must be made within the time prescribed. The original answer must be filed with the Commission, at its office in Washington, and a copy thereof must at the same time be served upon the complainant by the party answering, personally or by mail, who must forthwith notify the Secretary of the Commission of the fact. The answer must admit or deny the material allegations of fact contained in the complaint, and may set forth any additional facts claimed to be material to the issue. The answer must be verified in the same manner as the complaint. If a carrier complained against shall make satisfaction before answering, a written acknowledgment of satisfaction must be filed with the Commission, and in that case the fact of satisfaction without other matter may be set forth in the answer, filed and served on the complainant. If satisfaction be made after the filing and service of an answer, a supplemental answer setting forth the fact of satisfaction may be filed and served.

V. If a carrier complained against shall deem the complaint insufficient to show a breach of legal duty, it may, instead of filing an answer, serve on the complainant notice for a hearing of the case on the complaint; and in case of the service of such notice, the facts stated in the complaint will be taken as admitted. A copy of the notice must at the same

time be filed with the Commission. The filing of an answer will not be deemed an admission of the sufficiency of the complaint, but a motion to dismiss for insufficiency may be made at the hearing.

SERVICE OF PAPERS.

VI. Copies of notices or other papers must be served upon the opposite parties to the proceeding, personally or by mail, and when any party shall have appeared by attorney the service upon the attorney shall be deemed proper service upon the party.

AFFIDAVITS.

VII. Affidavits to a petition, complaint, or answer may be taken before any officer of the United States, or of any State or Territory, authorized to administer oaths.

AMENDMENTS.

VIII. Upon application by any petitioner or party, amendments may be allowed by the Commission, in its discretion, to any petition, answer, or other pleading in any proceeding before the Commission.

ADJOURNMENTS AND EXTENSIONS OF TIME.

IX. Adjournments and extensions of time may be granted upon the application of parties in the discretion of the Commission.

STIPULATIONS.

X. Parties to cases and proceedings before the Commission may, by stipulation, duly signed by them and filed with the Secretary, agree upon the facts, or any portion of the

facts, they deem to be involved in the controversy, which agreed statement shall be regarded and used as evidence. It is desirable that the facts be thus agreed upon whenever practicable.

HEARINGS.

XI. Upon issue being joined by the service of answer, the Commission will assign a time and place for hearing the same, which will be at its office in Washington, unless otherwise ordered. Witnesses will be examined orally before the Commission, unless testimony be taken or facts agreed upon as otherwise provided in these rules. The petitioner or complainant must in all cases prove the existence of the facts alleged to constitute a violation of the act, unless the carrier complained of shall admit the same, or shall fail to answer the complaint. Facts alleged in the answer must also be proved by the carrier, unless admitted by the petitioner.

In cases of failure to answer, the Commission will take such proof of the charge as may be deemed reasonable and proper, and make such order thereon as the circumstances of the case appear to require.

WITNESSES AND DEPOSITIONS.

XII. Subpœnas requiring the attendance of witnesses will be issued by any member of the Commission in all cases and proceedings before it, and witnesses will be required to obey the subpœnas served upon them requiring their attendance or the production of any books, papers, tariffs, contracts, agreements, or documents relating to any matter under investigation or pending before the Commission. When a subpœna is desired for the production of books, papers, or other

documentary evidence, special application must be made to the Commission therefor, specifying the documentary evidence desired.

When a cause is at issue on petition and answer, each party may proceed at once to take depositions of witnesses in the manner provided by sections 863 and 864 of the Revised Statutes of the United States, and transmit them to the Secretary of the Commission, without making any application to, or obtaining any authority from, the Commission for that purpose.* (Sections 863 and 864, Revised Statutes, are appended to these rules.)

PROPOSED FINDINGS OF FACT.

XIII. Upon the final submission of a case to the Commission, either party may submit proposed findings of fact for the consideration of the Commission, which findings must embrace only the material facts of the case supposed to be established by the testimony.

REHEARINGS.

XIV. Application for a rehearing may be made by either party at any time within sixty days after a decision shall have been filed and made public in any case decided by the Commission. Such application must be by petition, and must state clearly the findings of fact or conclusions of law supposed to be erroneous. If the application be to give

* Fees of witnesses are fixed by law at \$1.50 for each day's attendance at the place of hearing or of taking depositions, and 5 cents per mile for going to said place from his place of residence and 5 cents per mile for returning therefrom.

further testimony, the nature of the additional testimony must be briefly stated, and it must not be merely cumulative. The petition must be verified in the same manner as a complaint, and a copy thereof, with a notice of the time and place of the application, must be served upon the opposite party at least ten days before the time named for the application.

PRINTING OF PLEADINGS, ETC.

XV. For convenience in reading and filing, it is recommended that when practicable petitions, answers, and depositions be printed or in type-writing, and that when in type-writing, or ordinary writing, only one page of the paper be used.*

COPIES.

XVI. Copies of any petition, complaint, or answer in any matter or proceeding before the Commission, or of any order, decision, or opinion by the Commission, and also of testimony when practicable and desired for use in the case, will be furnished without charge upon application to the Secretary by any person or carrier party to the proceeding.

ADDRESS OF THE COMMISSION.

XVII. All complaints concerning anything done or omitted to be done by any railroad carrier, and all petitions or answers or applications relative to any pending proceeding, and all letters or telegrams relating in any manner to either of these matters, must be addressed to the Interstate Commerce Commission, Washington, D. C.

* It is desirable, if complaints, answers, etc., are in ordinary writing or type-writing, that the size of the pages should conform as near as convenient to 9 by 13 inches, not to exceed same; if printed, 6 by 9 inches.

Sections 863 and 864 of the Revised Statutes, referred to under Rule XII, are as follows:

"SEC. 863. The testimony of any witness may be taken in any civil cause depending in a district or circuit court by deposition *de bene esse*, when the witness lives at a greater distance from the place of trial than one hundred miles, or is bound on a voyage to sea, or is about to go out of the United States, or out of the district in which the case is to be tried, and to a greater distance than one hundred miles from the place of trial, before the time of trial, or when he is ancient and infirm. The deposition may be taken before any judge of any court of the United States, or any commissioner of a circuit court, or any clerk of a district or circuit court, or any chancellor, justice or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the cause. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition; and in all cases in *rem*, the person having the agency or possession of the property at the time of seizure shall be deemed the adverse party, until the claim shall have been put in; and whenever, by reason of the absence from the district and want of an attorney of record or other reason, the giving of the notice herein required shall be impracticable, it shall be lawful to take such depositions as there shall be urgent

necessity for taking, upon such notice as any judge authorized to hold courts in such circuit or district shall think reasonable and direct. Any person may be compelled to appear and depose as provided by this section, in the same manner as witnesses may be compelled to appear and testify in court.

“SEC. 864. Every person deposing as provided in the preceding section, shall be cautioned and sworn to testify the whole truth, and carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or by himself in the magistrate's presence, and by no other person, and shall, after it has been reduced to writing, be subscribed by the deponent.”

FORMS.

- No. 1.—Complaint against a single carrier.
- No. 2.—Complaint against joint or connecting carriers.
- No. 3.—Notice to answer.
- No. 4.—Notice to complainant.
- No. 5.—Answer.
- No. 6.—Notice by carrier under Rule V.
- No. 7.—Acknowledgment of answer.
- No. 8.—Notice of hearing.
- No. 9.—Subpœna.
- No. 10.—Notice of taking depositions under Rule XII.

*These forms may be used in cases to which they are applicable,
with such alterations as the circumstances may render necessary.*

No. 1.

Complaint against a single carrier.

INTERSTATE COMMERCE COMMISSION.

A. B.
against
THE ——— RAILROAD COMPANY. }

The petition of the above-named complainant respectfully shows:

I. That (*Here let complainant state his occupation and place of business.*)

II. That the defendant above named is a common carrier engaged in the transportation of passengers and property by railroad between points in the State of ——— and points in the State of ———, and as such common carrier is subject to the Act to regulate commerce.

III. That (*Here state concisely the matters intended to be complained of. Continue numbering each succeeding paragraph as in Nos. I, II, and III.*)

Wherefore the petitioner prays that the defendant may be required to answer the charges herein, and that after due hearing and investigation an order be made commanding the defendant to cease and desist from said violations of the Act to regulate commerce, and for such other and further order as the Commission may deem necessary in the premises. (*If reparation for any wrong or injury be desired, the petitioner should state the nature and extent of the reparation he deems proper.*)

Dated at ———, ———, 18—.

A. B.

(*Complainant's signature.*)

STATE OF ———,
County of ———, ss:

A. B., being duly sworn, says that he is the complainant in this proceeding, and that the matters set forth in the foregoing petition are true as he verily believes.

A. B.

Subscribed and sworn to before me this — day of ———, 18—.

C. D.,
Justice of the Peace,
(Or other officer authorized to administer oaths).

No. 2.

Complaint against joint or connecting carriers.

INTERSTATE COMMERCE COMMISSION.

A. B. against THE ——— RAILROAD COMPANY,	}	(Here set out in full the titles of the several carriers complained against.)
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The petition of the above-named complainant respectfully shows:

I. That (*here let complainant state his occupation and place of business*).

II. That the defendants above named are common carriers, and under a common control, management, or arrangement, for continuous carriage or shipment, are engaged in the transportation of passengers and property wholly by railroad (*or partly by railroad and partly by water, as the case may be*) between ———, in the State of ———, and ———, in the State of ———, and as such common carriers are subject to the Act to regulate commerce.

(Then proceed as in form No. 1.)

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No. 3.

Notice to answer.

THE INTERSTATE COMMERCE COMMISSION,
Washington, D. C., ———, 188—.

To the ———,
—————;

Enclosed please find a copy of a ——— petition filed against your company, embracing a statement of charges made by ——— under section 13 of the Act to regulate commerce, approved February 4, 1887, and amended March 2, 1889.

You are hereby called upon to satisfy the complaint or to answer the same, in writing, within twenty days from this date.

For the Commission:

—————,
Secretary.

—————

No. 4.

Notice to complainant.

THE INTERSTATE COMMERCE COMMISSION,
Washington, ———, 188—.

—————,
—————:
—————:

Your petition against the ——— Company, under section 13 of the Act to regulate commerce, approved February 4, 1887, and amended March 2, 1889, is received and placed on file.

A statement of the charges made has been forwarded to the carrier for satisfaction or answer within twenty days.

For the Commission:

—————,
Secretary.

No. 5.

Answer.

INTERSTATE COMMERCE COMMISSION.

A. B.
against
THE ——— RAILROAD COMPANY. }

The above-named defendant, for answer to the complaint in this proceeding, respectfully states—

I. That (*Here follow the usual admissions, denials, and averments. Continue numbering each succeeding paragraph.*)

Wherefore the defendant prays that the complaint in this proceeding be dismissed.

THE ——— RAILROAD COMPANY,
By E. F.,
(*Title of officer.*)

STATE OF ———,
County of ———, ss:

E. F., being duly sworn, says that he is the ——— of the ——— Railroad Company, defendant in this proceeding, and that the foregoing answer is true as he verily believes.

E. F.

Subscribed and sworn to before me this ——— day of ———, 18—.

C. D.,
Justice of the Peace,
(*Or other officer authorized to administer oaths.*)

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No. 6.

Notice by carrier under Rule V.

INTERSTATE COMMERCE COMMISSION.

A. B.
against
THE ——— RAILROAD COMPANY. }

Notice is hereby given under Rule V of the Rules of Practice in proceedings before the Commission that a hearing is desired in this proceeding upon the facts as stated in the complaint.

THE ——— RAILROAD COMPANY,
By E. F.,
(Title of officer.)

No. 7.

Acknowledgment of answer.

INTERSTATE COMMERCE COMMISSION.

Washington, ———, 188—.

———,
———,
———.

———:

The Commission acknowledges the receipt of an answer made by the
——— Rail—— Company to the complaint filed against said company
——— by ——, and the same has been filed.

For the Commission:

Very respectfully,

———,
Secretary.

No. 8.

Notice of hearing.

INTERSTATE COMMERCE COMMISSION,
Washington, ———, 188—.

———,
———,
———.

———:

The case of ——— against the ——— Rail ——— Company ——— is
assigned for hearing ———, 188—, ——— a. m., at ———.

For the Commission: -

———,
Secretary.

———

No. 9.

Subpœna.

INTERSTATE COMMERCE COMMISSION.

To ———,
———:

You are hereby required to appear before ——— in the matter of a
complaint of ——— against ———, as a witness on the part of ———,
on the ——— day of ———, 188—, at ——— o'clock at ———, and bring
with you then and there ———.

Dated ———.

[SEAL.]

———,
Commissioner.

———,
———,
Attorney for ———.

[NOTICE.—Witness fees for attendance under this subpœna are to be
paid by the party at whose instance the witness is summoned, and
every copy of this summons for the witness must contain a copy of this
notice.]

No. 10.

Notice of taking depositions under Rule XII.

INTERSTATE COMMERCE COMMISSION.

A. B.
against
 THE ——— RAILROAD COMPANY. }

You are hereby notified that G. H. will be examined before C. D., a ——— (*title of officer or magistrate*), at ———, on the ——— day of ———, 18—, at ——— o'clock in the ———noon, as a witness for the above-named complainant (*or defendant, as the case may be*), according to act of Congress in such case made and provided, and the rules of practice of the Interstate Commerce Commission; at which time and place you are notified to be present and take part in the examination of the said witness

Dated ———, ———, 18—.

I. J.

(*Signature of complainant or defendant, or of counsel.*)

To A. B., the above-named complainant (*or The ——— Railroad Company, the above-named defendant; or to K. L., counsel for the above-named complainant or defendant.*)

NOTE.—*The Commission recommends that the conditions upon which witnesses may be examined under sections 863 and 864 of the Revised Statutes before one of the officers designated be waived, and that parties consent in all cases to take testimony in that manner when practicable.*

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